

## **Label: "Reinitiation of Section 7 Consultation/OSMRE-2019-00014"**

**Created by:gowens@osmre.gov**

Total Messages in label:5 (3 conversations)

Created: 12-13-2018 at 15:03 PM

# Conversation Contents

## Update on Section 7 Consultation

### Attachments:

/3. Update on Section 7 Consultation/1.1 OSMRE Section 7 Consultation and MOU Update - 10-26-17.docx

**"Payne, Harry" <hpayne@osmre.gov>**

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**From:** "Payne, Harry" <hpayne@osmre.gov>  
**Sent:** Thu Oct 26 2017 13:42:02 GMT-0600 (MDT)  
**To:** Glenda Owens <gowens@osmre.gov>  
**CC:** Sterling Rideout <srideout@osmre.gov>  
**Subject:** Update on Section 7 Consultation  
**Attachments:** OSMRE Section 7 Consultation and MOU Update - 10-26-17.docx

Updates in BOLD font.

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**Harry J. Payne**  
Chief, Division of Regulatory Support  
Office of Surface Mining Reclamation and Enforcement  
1849 C Street NW  
Mail Stop 4550  
Washington, DC 20240  
202-208-2895

**"Owens, Glenda" <gowens@osmre.gov>**

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**From:** "Owens, Glenda" <gowens@osmre.gov>  
**Sent:** Thu Oct 26 2017 13:47:20 GMT-0600 (MDT)  
**To:** "Payne, Harry" <hpayne@osmre.gov>  
**CC:** Sterling Rideout <srideout@osmre.gov>  
**Subject:** Re: Update on Section 7 Consultation

Thanks Harry!

On Thu, Oct 26, 2017 at 3:42 PM, Payne, Harry <[hpayne@osmre.gov](mailto:hpayne@osmre.gov)> wrote:  
Updates in BOLD font.

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**Harry J. Payne**  
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**Date:** October 26, 2017

**Subject:** Reinitiation of Endangered Species Act Section 7 Consultation

**Background:** On April 13, 2017, the Office of Surface Mining and Enforcement (OSMRE) requested reinitiation of formal programmatic consultation with the U.S. Fish and Wildlife Service (Service), on OSMRE's implementation of Title V of the Surface Mining Control and Reclamation Act (SMCRA). During this reinitiated consultation, OSMRE is relying upon the 1996 Biological Opinion and Conference Report (1996 BiOp) because the 2016 Biological Opinion that accompanied the SPR is no longer in effect.

In addition, OSMRE and the Service are (b)(5)-Deliberative Process

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Consultation Status:** OSMRE and the Service have established teams for completing consultation, including representatives from OSMRE management, OSMRE program staff, and the Office of the Solicitor (SOL). The OSMRE team completed an initial draft of the biological assessment (BA) and distributed the draft BA to the SOL for review. The OSMRE BA team completed revisions to address all SOL comments and distributed the draft for follow-up review.

**The solicitors reviewed the revised BA and returned it to OSMRE on October 26, 2017. Once OSMRE addresses any additional solicitor comments, the draft BA will be circulated within the Department for review and any necessary revisions before being approved for release to the IMCC member states for review and comment. Copies of all material referenced in the draft BA will also be provided to the States.**

The final BA will be provided to the Service for its use in drafting a programmatic Biological Opinion (BiOp).

OSMRE and the Service met with IMCC member states in St. Louis on July 19, 2017, to discuss the Section 7 programmatic consultation process and the draft MOU. During that meeting, and on a subsequent call on July 26, the State RAs expressed several concerns and objections to the need for a new Section 7 consultation on Title V of SMCRA. Those concerns were further elaborated in an August 14, 2017, letter sent to the Deputy Assistant Secretary for Land and Minerals Management.

**OSMRE has provided ASLM with a draft response to the IMCC letter, which is being reviewed within the Department.**

(b)(5)-Deliberative Process

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(b)(5)-Deliberative Process

[REDACTED]

[REDACTED]

[REDACTED] Our next step is to complete a summary table of the IMCC comments on the MOU and our responses to those comments. Upon completion of that summary we will provide the revised MOU to management for further review. Upon approval by the Department, the draft MOU, in addition to the draft BA, will be provided to the IMCC member states for further review and comment.